

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2019-075-00244C

Parcel No. 24-17-276-012

Pinnacle Bank N/K/A Peoples Bank,

Appellants,

vs.

Plymouth County Board of Review,

Appellee.

Introduction

The appeal came on for written consideration before the Property Assessment Appeal Board (PAAB) on November 8, 2019. Attorney Bradley De Jong represented Pinnacle Bank and asked that the appeal proceed without a hearing. County Assessor Jill Renken represented the Plymouth County Board of Review.

Pinnacle Bank Sioux City (The Appellant) owns a commercial bank located at 468 Titan Road, Hinton. Its January 1, 2019, assessment was set at \$1,043,600, allocated as \$71,640 in land value, and \$971,960 in improvement value. (Ex. A, p. 5).

The Appellant petitioned the Board of Review contending its property's assessment is not equitable as compared with assessments of other like property, and that it is assessed for more than the value authorized by law. Iowa Code § 441.37(1)(a)(1 & 2) (2019). The Board of Review modified the assessment setting it at \$719,950, allocated as \$63,990 in land value and \$655,960 in improvement value. (Ex. A, p. 1 & B).

The Appellant's appeal to PAAB re-asserted its claim the property is over assessed and also indicated there is an error in the assessment. However, the Appellant did not make any statements of an error and its plain statement more

accurately reflected a claim of inequity. Therefore, PAAB will consider inequity and over assessment claims. § 441.37(1)(a)(1 & 2).

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code R. 701-126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); see also *Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005).

Findings of Fact

The subject property is a one-story, concrete and steel bank branch built in 2011. It has 3561 square feet of gross building area and no basement. It also has a bank window with a remote pneumatic, a vault, a portico, and 22,000 square feet of concrete paving. The improvements are listed in normal condition with a 2-00 Grade (high quality). The site is 1.281 acres. (Ex. A).

The Appellant submitted a Broker's Evaluation completed by Beau Braunger with NAI United Commercial Real Estate Services. (Ex. 1). Braunger's evaluation was completed in September 2018 and developed an income and comparable sales (market) approach. Braunger concluded an estimate of value of \$534,150 for the subject property.

Braunger's report summarizes his conclusions, but does not provide any rationale or support for how he arrived at his estimate of value. He relied on three properties he considered comparable to the subject and attached beacon summary sheets for each of them as an addendum to his evaluation letter.

Comparable	Sale Date	Sale Price	Gross Building Area (SF)	Year Built	Use	SP/SF
Subject - 468 Titan Rd, Hinton, IA			3561	2011	Bank	
1 - 121 Gateway Dr, Dakota Dunes, SD	Nov-14	\$310,000	2352	1998	Office	\$131.80
2 - 220 Plymouth St SW, LeMars, IA	Jan-15	\$495,000	2742	2002	Office	\$180.53
3 - 301 Plymouth St NW, LeMars, IA	Jun-16	\$271,000	3168	1974/1997	Bank	\$85.54

We note the sales are somewhat dated and Braunger made no market condition adjustments. Braunger did not adjust the comparable properties for any differences between them and the subject property. All of the properties are roughly 10- to 40-years older than the subject. Sale 3 has a full basement. It is unknown if the location of these sales are comparable to the subject's location in Hinton.

Braunger notes the average sale price is \$133 per square foot. However because the subject property is newer than the comparable properties and is a "class 'A' office atmosphere" he concluded an estimate of value of \$150 per square foot; or \$534,150. (Ex. 1).

The Board of Review was critical of Braunger's analysis. Although previously owned by a credit union, the Board of Review reported Sale 1 was purchased by Wheeldon Foods SD LLC and its use after the sale was for office space. (Ex. E). After the purchase, Wheeldon Foods built an 864 square-foot attached garage. We note this property has a smaller site than the subject, was built in 1998, and is roughly 1200 square feet smaller than the subject.

Sale 2 was also used for office space before and after it sold in 2015. It was not built as a bank, and County Assessor Jill Renken notes it would require several adjustments to be comparable to the subject property, which was built as a bank. (Ex. E). In addition, we note this property was built in 2002, has a much smaller site, and has 800 square feet less of building area than the subject. (Ex. 1).

Sale 3 was originally built as a bank in 1974. The Assessor's Office verified with the bank manager that this property had been vacant for three months prior to its purchase, which was initiated by the buyer. This property had never been on the open market. Moreover, the Board of Review reports this property needed cosmetic updates.

(Ex. E). We note it has a smaller site than the subject, has 400 square feet less building area than the subject, has an inferior construction quality grade as compared to the subject, and a construction permit was taken out for the property after the sale. (Ex. 2, A). These differences would require adjustment to the sale price and would also result in a higher assessment for the subject property compared to Sale 3.

Braunger also developed an income approach to value. He submitted an opinion of \$10 per square foot triple net “office” rent for an expected annual income of \$35,610. (Ex. 1). He does not provide any support for his estimate of office rent and does not appear to consider a market rent for the subject’s current use as an operating bank. Renken noted the Assessor’s Office reviewed four actual leases of banks or savings and loans that indicate rental rates between \$13.75 and \$40.97 per square foot. (Ex. E). Renken believes Braunger’s lease estimates were based on the subject property being used for office space rather than its current use as a bank.

After considering expenses, which are also unsupported, Braunger arrived at a net operating income of \$32,542. He asserts an investor would be willing to pay a 9% capitalization rate based on a five plus year lease with a qualified tenant. Based on this analysis his estimate of value by the income approach is \$361,578. (Ex. 1).

The Appellant submitted three bank properties and an office property it believes show its property inequitably assessed. (Appeal & Ex. 2).

Comparable	Assessed Land Value	Assessed Improvement Values	Total Assessed Value	Gross Building Area (SF)	AV/SF of Improvements
Subject Bank	\$63,990	\$719,950	\$783,940	3561	\$202.18
4 - Peoples Bank, Akron	\$37,990	\$346,680	\$384,670	2826	\$122.68
5 - Northwest Bank, Le Mars	\$200,100	\$455,550	\$655,650	2772	\$164.34
6 - Iowa State Bank, Le Mars	\$69,000	\$333,800	\$402,800	3168	\$105.37
7 - Ritz Chiropractic, Le Mars	\$69,000	\$322,060	\$391,060	2742	\$117.45

The four properties’ average improvement assessed value is \$127.46 per square foot. The Appellant proposes an assessed building value for its property of \$462,510. Dividing this proposed value by the gross building area of the subject property results in a calculation of \$129.88 per square foot. The Appellant believes this

supports its contention its property is not assessed in an equitable manner and that it is assessed for more than the value authorized by law. (Appeal).

Comparables 4, 5, and 6 are wood and brick veneer bank branches built in 2002, 2005, and 1974 respectively. Comparable 7 is an office built in 2002. (Ex. 1, 2).

Renken explained the Board of Review adjusted the subject's land value, reduced the quality grade rating of the property from a 1+00 to a 2+00, and applied a 20% economic obsolescence adjustment to the improvements and yard items. (Ex. E).

Analysis & Conclusions of Law

The Appellant contends the subject property is inequitably assessed and is assessed for more than the value authorized by law. § 441.37(1)(a)(1 & 2).

We first address the Appellant's over assessment claim, as a showing of the property's actual value is required in an inequity analysis.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted).

There is no presumption the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation 10 omitted). To shift the burden, the taxpayer must "offer[] competent evidence that the market value of the property is different than the market value determined by the assessor." Iowa Code § 441.21(3). To be competent evidence, it must "comply with the statutory scheme for property valuation for tax assessment purposes." *Soifer*, 759 N.W.2d at 782.

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* The sales comparison method is the preferred method for valuing property

under Iowa law. *Compiano*, 771 N.W.2d at 398; *Soifer*, 759 N.W.2d at 779; *Heritage Cablevision v. Bd. of Review of Mason City*, 457 N.W.2d 594, 597 (Iowa 1990). “Sale prices of the property or comparable property in normal transactions reflecting market value, and the probable availability or unavailability of persons interested in purchasing the property, shall be taken into consideration in arriving at its market value.”

§ 441.21(1)(b). Sale prices of property in abnormal transactions not reflecting market value shall not be taken into account or shall be adjusted to account for market distortion. *Id.* Other approaches to value can only be considered if it is shown the subject’s market value cannot be readily established by the sales approach.

§ 441.21(2).

The first step in this process is determining if comparable sales exist. *Soifer*, 759 N.W.2d at 783. “Whether other property is sufficiently similar and its sale sufficiently normal to be considered on the question of value is left to the sound discretion of the trial court.” *Id.* at 782 (citing *Bartlett & Co. Grain Co. v. Bd. of Review of Sioux City*, 253 N.W.2d 86, 88 (Iowa 1977)). Similar does not mean identical and properties may be considered similar even if they possess various points of difference. *Id.* (other citations omitted). “Factors that bear on the competency of evidence of other sales include, with respect to the property, its ‘[s]ize, use, location and character,’ and, with respect to the sale, its nature and timing. *Id.* (other citations omitted). Sale prices must be adjusted “to account for differences between the comparable property and the assessed property to the extent any differences would distort the market value of the assessed property in the absence of such adjustments.” *Id.* (other citations omitted). “[A] difference in use does affect the persuasiveness of such evidence because ‘as differences increase the weight to be given to the sale price of the other property must of course be correspondingly reduced.’” *Soifer*, 759 N.W.2d at 785 (quoting *Bartlett & Co. Grain*, 253 N.W.2d at 93).

The Appellant submitted the Braunger Broker’s Evaluation concluding an estimate of value of \$534,150. Braunger developed the sales comparison (market) approach and income approach to value. We do not find Braunger’s opinion of value complies with the statutory scheme because the properties on which he relied were not comparable to the subject and he did not adjust them for necessary differences

between them and the subject. Even if we had found this evidence sufficiently competent to shift the burden of proof to the Board of Review, we find the Board of Review upheld its burden by demonstrating errors in Braunger's evaluation.

In addition to other important differences that would require adjustment, two of Braunger's comparable sales were either not originally built as banks and were to be used for general office space rather than bank purposes like the subject. While the comparables do not need to be identical and the use of properties likewise need not be identical, a difference in use does affect the persuasiveness of such evidence. *Id.* The *Soifer* court stated, "as differences increase the weight to be given to the sale price of the other property must of course be correspondingly reduced." *Id. Citing Bartlett & Co. Grain*, 253 N.W.2d 86, 93 (Iowa 1977). In *Soifer*, the Court found Blanchfield undervalued the Soifers' fast food restaurant because he primarily relied on properties that, although formerly fast food restaurants, were not used as fast-food restaurants after their sale. *Id.* at 791. It stated their "sales prices did not completely capture the value of the properties in their present use" and undervalued the subject property. *Id.* The change in use reduces the persuasiveness of these sales. *Hy-Vee, Inc. v. Dallas Cnty. Bd. of Review*, 2014 WL 4937892 (Iowa Ct. App. Oct. 1, 2014) (noting that the use of comparables need not be identical to the subject, but a difference in use affects the persuasiveness of the sale) (citations omitted). In *Hy-Vee*, the Court of Appeals concluded the Board of Review's expert's report that relied on sales showing continued operation as grocery stores enhanced the persuasiveness of the evidence. *Id.* at *5. It was not persuaded to rely on Hy-Vee's experts' who "each compared only one or two grocery stores, which either had been vacant, were re-purposed after the sale, or were much smaller in size and scale than the Hy-Vee supermarket." *Id.* at *2. We do not find Braunger's unadjusted sales are comparable to the subject property and would not reflect a value of the subject property in its current use as an operating bank.

Braunger's third comparable was built as a bank and purchased for use as a bank. However it is much older than the subject property, has a smaller site size, less building area, has an inferior quality of construction grade, and was reportedly in inferior

condition compared to the subject property. Braunger did not report or adjust for any of these factors.

Braunger also developed an income approach but appears to have relied on office rental rates rather than rents that would be realized by an operating bank. The Board of Review submitted a range of rental rates for banks that showed Braunger's estimated rent was below market. There is no support for his lease rates, his expenses, or his capitalization rate. Ultimately, there has also been no showing consideration should be given to the income approach under section 441.21(2) and we give Braunger's income approach no weight.

Based on the foregoing, we do not believe Braunger's reliance on dated, unadjusted, inferior property sales complies with the statutory scheme for property valuation or results in a reliable opinion of value.

Lastly, the Appellant submitted a comparison of the subject with other properties located in Plymouth County to develop an average assessed building value per square foot. (Ex. 2). Due to differences in age and construction, we do not believe these properties are sufficiently alike and comparable to be used in the fashion employed by the Appellant here. An average of the properties' building values would result in an undervaluation of the subject property.

Most importantly, however, the Appellant's approach is not a recognized method for valuation under section 441.21 or a recognized method to demonstrate inequity under Iowa case law precedent. *Maxwell v. Shivers*, 139 N.W.2d 709, 711 (Iowa 1965) (describing evidentiary requirements to obtain relief on ground that property is assessed inequitably); *Eagle Food Centers v. Bd. of Review of City of Davenport*, 497 N.W.2d 860 (Iowa 1993) (finding inequity shown when taxpayer demonstrated assessor applied non-uniform assessing method to similarly situated properties). In short, simply comparing building assessments on per-square-foot basis, without more, is insufficient to demonstrate inequity or overassessment. *White v. Bd. of Review of Polk Cnty.*, 244 N.W.2d 765, 769 (Iowa 1976) (suggesting the focus should be on the whole or total assessment, as opposed to certain elements of the assessment) (citing *Deere Mfg. Co. v. Zeiner*, 78 N.W.2d 527, 531 (Iowa 1956)).

Viewing the record as a whole, we affirm the assessment.

Order

PAAB HEREBY AFFIRMS the Plymouth County Board of Review's action.

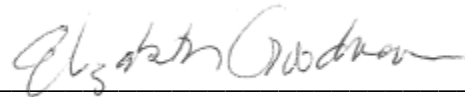
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A (2019).



Karen Oberman, Board Member



Elizabeth Goodman, Board Member



Dennis Loll, Board Member

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Bradley De Jong by eFile

Plymouth County Board of Review by eFile